

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

4 SHAWN MACKEY PLAINTIFF

V. CIVIL ACTION NO. 3:23-CV-233-DPJ-ASH

7 JOHN PIGOTT, ET AL. DEFENDANTS

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30(B)(6) DEPOSITION OF THE MISSISSIPPI
COMMUNITY COLLEGE BOARD

11 | CORPORATE DESIGNEES: JOHN PIGOTT AND KELL SMITH

(Appearances noted herein)

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1 seek out Dr. Portera's firm to do a search, so I don't
2 know of anybody else that would have applied.

3 Q. Did Andrea Mayfield apply?

4 A. When Dr. Portera brought us the final three that
5 he had narrowed the field down to, Dr. Mayfield was one of
6 those that applied and was interviewed for the job.

7 Q. And who were the other two?

8 A. Shawn Mackey. The third one, I forgot. It was
9 a few years ago.

10 Q. Why did the -- according to Area 21, did the
11 Mississippi Community College Board change or revise the
12 job description for executive director?

13 A. Changed the educational requirements for the
14 position based on the fact that the board did not feel it
15 necessary to have someone with a doctorate degree to run a
16 small agency like we have; changed the requirements
17 because they thought it would open up the field for more
18 applicants because we weren't exactly sure what role
19 Accelerate Mississippi would have in the future of the
20 Community College Board; probably the fact that the salary
21 would be lower -- and, again, I'm thinking of -- I don't
22 know if it's in the minutes or not, but we were looking at
23 changing the salary of the director to a lower amount.

24 Q. Why didn't the board feel that it was necessary
25 to have someone with a Ph.D. to lead the agency?

1 have been granted since the pay was set at 175?

2 A. I believe only one, but, again, I would -- check
3 the payroll records. That's probably public record.

4 Q. And on this 175, should the minutes reflect when
5 the board voted to set the pay at 175 for the executive
6 director's position?

7 A. It should be in the minutes.

8 Q. Why was Kell Smith selected on behalf of the
9 Mississippi Community College Board -- can you tell me why
10 Kell Smith was selected as both the interim executive
11 director and the executive director of the Mississippi
12 Community College Board?

13 A. Kell Smith was initially selected by the board
14 as the interim in order for the candidate -- to put a
15 director in temporarily that we did not foresee to be a
16 candidate for the full-time job.

17 Q. So is that the reason why Kell Smith was
18 selected, because the board wanted to put in someone who
19 would not be a candidate for the job -- for the full-time
20 job?

21 A. That was one of the points. We also wanted
22 someone that would help be a peacemaker with the
23 relationships between the presidents and staff. There had
24 been some chaos with the retirement of Dr. Mayfield. We
25 were not in a rush to appoint someone else.

1 Q. So you said the board wanted someone who could
2 be a peacemaker. Was Kell Smith the only person who could
3 be a peacemaker?

4 A. And he also was not foreseen to be a candidate
5 for the position.

6 Q. My question was, was Kell Smith the only MCCB
7 employee who could act as a peacemaker?

8 A. I can't speak on behalf of the board on that,
9 because that's who they chose.

10 Q. But you are here today to speak on behalf of the
11 board. You're saying the board has no explanation?

12 MS. DOWDLE: Object to the form;
13 mischaracterizes testimony.

14 A. The minutes will obviously record that Kell was
15 chosen.

16 Q. (By Ms. Ross) Right. But would you agree with
17 me that the minutes don't say anything about Kell being
18 chosen because he was the peacemaker?

19 A. That's not the sole reason.

20 Q. Okay. I know, but would you agree with me on
21 this question, that the minutes does not -- do not reflect
22 that he was chosen because he was perceived to be a
23 peacemaker?

24 A. I think all the minutes will reflect that he --
25 all the minutes will probably say is that he was appointed

1 interim director could not be interested in becoming the
2 executive director?

3 MS. DOWDLE: Object to the form;
4 mischaracterizes testimony. But you can answer.

5 A. Let me think about the question for a minute.

6 THE WITNESS: Would you read that back to me?

7 (The reporter read the requested portion.)

8 A. The board realized that Dr. Mackey was most
9 likely going to be a candidate for the job when it opened.
10 Because of that, they wanted to choose an individual that
11 they did not foresee to be a candidate for the position.

12 There were probably other staff members that
13 would have also been applying, so we really, truthfully,
14 did not want to hire someone -- appoint someone as interim
15 that we thought could be a candidate for the position.

16 Q. (By Ms. Ross) And who were the other staff
17 members who you -- the board thought would be applying?

18 A. I'm sure a number of names were kicked around in
19 executive session. I don't remember all of them. We did
20 have one that applied -- one that called me -- she never
21 applied -- also requesting to come see me and discuss the
22 job, and I told -- that's when I -- I made it clear to
23 them that I was one of ten members on the board, that it
24 was not me to decide who to --

25 Q. All right.

1 Q. Okay. And you can't point the Court to any
2 minutes or any other document where the board -- that
3 reflect that the board discussed the qualifications that
4 the person needed to serve as executive director; correct?

5 A. There are no documents that I'm aware of.

6 Q. As it relates to the executive director's
7 position, did the board assign scores to the candidates or
8 use score sheets?

9 A. We did not use score sheets.

10 Q. And did the board maintain the notes of all of
11 the individuals or trustees who participated in the
12 decision to select Kell Smith?

13 A. All notes that were known have been turned over.

14 Q. Why was Kell Smith selected as the executive
15 director?

16 A. Speaking on behalf of the board, they felt like
17 that Kell Smith was qualified for the job, had done a good
18 job during the interim period, and the board decided to
19 appoint him full-time director.

20 Q. And what was it about Kell Smith that made him
21 qualified for the position of executive director?

22 A. Kell Smith did an excellent job. He met the
23 qualifications that were present at the time he was
24 appointed.

25 Q. And what were those qualifications, sir?

1 A. I don't have the qualifications at my fingertips
2 on that, but the bottom line was, looking at the final
3 three candidates, the selection committee had narrowed it
4 down to three, left the board to interview the last three
5 and make their decision.

6 Q. And who were the final three candidates?

7 A. Shawn Mackey, Steve Miller, and Kell Smith.

8 Q. You mentioned that Kell Smith had done an
9 excellent job. When had he done an excellent job?

10 A. Good question.

11 Q. You can answer it.

12 A. From the time he was hired as interim director,
13 we had heard no complaints. He was able to bring the
14 staff together. The presidents were happy with the
15 interim director choice, the few we talked to, and it's
16 all anecdotal there. Speaking on behalf of the board, the
17 board was please with the job that was being done.

18 Q. Now, the presidents, what presidents are you
19 referring to?

20 A. Again, it's anecdotal. I attended a few of the
21 MACC meetings. I don't know the dates or which presidents
22 I talked to personally, but they all were happy with the
23 job that Kell was doing, the ones that I spoke to, and I
24 did not talk to all 15.

25 Q. And MACC is the Mississippi Association of

1 Q. Okay. Does it state anywhere in this document
2 that Kell Smith was a peacemaker, sir; "yes" or "no"?

3 MS. DOWDLE: Objection; asked and answered.

4 Q. (By Ms. Ross) You can answer the question.

5 A. I answered.

6 Q. You can answer the question, sir.

7 A. You have read the document yourself.

8 Q. No, no, but this is for the record; "yes" or
9 "no"?

10 A. I do not see anywhere in the document -- I see
11 that Mr. Smith was hired based on qualifications,
12 interview and his performance as interim executive
13 director.

14 Q. And what qualifications -- what objective --
15 what qualifications were objectively evaluated of Kell
16 Smith?

17 A. That's hard to parse out individually to exactly
18 what each and every board member's thoughts were. All I
19 can tell you is that the board decided to hire Kell Smith
20 based on his qualifications, as stated on his resume, as
21 based on his interview performance, and as based on his
22 job as interim.

23 Q. And like the board members who voted to hire
24 him, Kell Smith is white as are the board members?

25 MS. DOWDLE: Object to the form. You may

1 answer.

2 A. That is correct.

3 Q. (By Ms. Ross) Now, the IHL does not govern
4 MCCB, does it?

5 A. They do not.

6 Q. So this paragraph about IHL, does it have -- why
7 is it in this letter to the EEOC?

8 MS. DOWDLE: Object to the form. The witness
9 has already testified he didn't author this document.

10 Q. (By Ms. Ross) On behalf of the agency, sir?

11 A. I can't answer it. I did not write that.

12 Q. And in its -- how old is MCCB now, sir?

13 A. I think it was formed in -- reaching back --
14 Mr. Smith might can answer better than me -- 1986.

15 Q. So at the time this letter was written, it was
16 36 years old. How old is it now?

17 A. '86 to today, I don't know what month it was
18 born, but do the math, it's been 25 -- 41 years.

19 Q. And in its 41 years, it's never had an African
20 American executive director; correct?

21 A. Not to my knowledge, and looking at the list, I
22 don't think so, no, ma'am.

23 (Pause.)

24 MS. DOWDLE: Did you need to clarify your
25 testimony?